

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

9557, LLC and)		
RIVER WEST MEETING ASSOCIATES, INC.,)	Court No.: 1:15-cv-10882	
)	
Plaintiffs,)	NOTICE OF REMOVAL OF	
)	ACTION UNDER 28 U.S.C. § 1441
v.)	(Diversity Jurisdiction)	
)	
TRAVELERS INDEMNITY COMPANY)	CIRCUIT COURT OF COOK	
OF CONNECTICUT,)	COUNTY, ILLINOIS,	
)	Case No. 15 L 11020
Defendant.)		

TO THE CLERK OF THE ABOVE-ENTITLED COURT:

PLEASE TAKE NOTICE that Defendant, TRAVELERS INDEMNITY COMPANY OF CONNECTICUT (“Travelers”), by and through its attorneys, pursuant to 28 U.S.C. §§ 1332, 1441(a) and 1446, hereby removes to this Court the state court action described below:

1. On or about October 30, 2015, Plaintiffs, 9557, LLC (“9557”) and RIVER WEST MEETING ASSOCIATES, INC. (“River West”), filed an action in the Circuit Court of Cook County, Illinois, under Case No. 15 L 11020, against Defendant Travelers. Plaintiffs’ Complaint is attached hereto as Exhibit A and incorporated herein by reference.

2. On or after November 6, 2015, Travelers was served with a copy of Plaintiffs’ Complaint.

3. This Notice of Removal is timely filed under 28 U.S.C. § 1446(b)(1) and (2)(B) as it is filed within thirty (30) days after Travelers’ receipt of Plaintiffs’ Complaint on or after November 6, 2015.

4. This action is a civil action of which this Court has original jurisdiction under 28 U.S.C. § 1332 and is one which may be removed to this Court by Travelers pursuant to the provisions of 28 U.S.C. § 1441 in that it is a civil action between citizens of different states and the

matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

5. At the time the Complaint was filed, and at all times subsequent thereto, Plaintiff 9557 was and is an Illinois limited liability company. At the time the Complaint was filed, and at all times subsequent thereto, 9557's managing member, Mary Ann Doherty, was and is a citizen of the State of Illinois. On information and belief, at the time the Complaint was filed, and at all times subsequent thereto, any other member of Plaintiff 9557 was and is a citizen of the State of Illinois.

6. At the time the Complaint was filed, and at all times subsequent thereto, Plaintiff River West was and is an Illinois corporation with its principal place of business in the State of Illinois.

7. At the time the Complaint was filed, and at all times subsequent thereto, Defendant Travelers was and is a Connecticut corporation with its principal place of business in the State of Connecticut.

8. The amount in controversy exceeds \$75,000. 28 U.S.C. 1446(c)(2) permits a defendant to assert the amount in controversy where the amount is not stated in the state court pleading. 28 U.S.C. 1446(c)(2) (2012). Removal is proper where "the district court finds, by the preponderance of the evidence, that the amount in controversy exceeds the amount specified in section 1332(a)." *Id.*

9. The Seventh Circuit has established a low threshold for defendants in establishing the amount in controversy. "It must appear to a legal certainty that the claim is really for less than the jurisdictional amount to justify dismissal." *Barbers, Hairstyling For Men & Women, Inc. v. Bishop*, 132 F.3d 1203, 1205 (7th Cir. 1997). "Removal is proper if the defendant's estimate of the stakes is plausible." *Rubel v. Pfizer Inc.*, 361 F.3d 1016, 1020 (7th Cir. 2004).

10. Plaintiffs' Complaint alleges "damages to Plaintiffs in an amount in excess of \$50,000." (Complaint, Exhibit A, ¶ 10). Plaintiffs also seek an award under Section 155 of the Illinois Insurance Code. (Complaint, Exhibit A, ¶ 13). Under Section 155, an insured may recover reasonable attorney's fees and "an amount not to exceed any of the following amounts: (a) 60% of the amount which the court or jury finds such party is entitled to recover against the company, exclusive of all costs; (b) \$60,000 . . ." Thus, if Plaintiffs prove damages in the amount of \$50,000, Plaintiffs could seek recovery under Section 155 for an additional \$30,000 (60 percent of \$50,000) plus reasonable attorney's fees, making the stakes to Travelers in excess of \$75,000. Statutory damages available under 215 ILCS 5/155 count towards the amount in controversy requirement of 28 U.S.C. § 1332(a). *Remy v. Travelers Home and Marine Ins. Co.*, 2013 WL 2573952, *2 (N.D. Ill. 2013), citing *Stachewicz v. National Union Fire Ins. Co. of Pittsburg, PA*, 2009 WL 3065065 (S.D. Ill. 2009).

WHEREFORE, Defendant, TRAVELERS INDEMNITY COMPANY OF CONNECTICUT, prays that the above-entitled cause, currently pending in the Circuit Court of Cook County, Illinois, under Case No. 15 L 11020, be removed therefrom to the United States District Court for the Northern District of Illinois and that this cause proceed in this Court as an action properly removed thereto.

Respectfully submitted,

/s/ Thomas B. Orlando
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Attorneys for Defendant,
TRAVELERS INDEMNITY COMPANY OF
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CERTIFICATE OF SERVICE

I, the undersigned, on oath, subject to penalty of perjury, state that I served the *Notice of Removal* and *Appearance*, by mailing a copy to all counsel of record, at the address set forth below and depositing same in the U.S. Mail at 222 N. LaSalle Street, Suite 1400, Chicago, Illinois 60601, before 5:00 p.m. on December 3, 2015, with postage prepaid.

Edward Eshoo, Jr.
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/s/ Thomas B. Orlando
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